

**MINUTES RECAP
MARYSVILLE CITY COUNCIL - REGULAR MEETING
JULY 26, 1999**

09208

CALL TO ORDER/FLAG SALUTE	7:00 P.M.
ROLL CALL	All present
MINUTES OF PREVIOUS MEETING 1. July 12, 1999	Approved as corrected
AUDIENCE PARTICIPATION	Bruce Tipton
PRESENTATIONS/PETITIONS/COMMUNICATIONS	National Night Out
CONSENT AGENDA 1. Approval of July 26, 1999 claims in the amount of \$469,820.58, paid by check nos. 46766 through 47079. 2. Approval utility variance request for three water connections and three sewer connections, subject to conditions. SGA Corporation (Bob Hart); 31 st Avenue South of 6130 (Lots 2 and 3); UV 99-03.	Approved as presented. Approved as presented.
ACTION ITEMS	
REVIEW BIDS None	
PUBLIC HEARING 1. L.I.D. No. 70 (continued from June 28, 1999)	Rejected in its current form; requested staff to bring back implementing ordinance.
CURRENT BUSINESS 1. 116 th Street Master Plan	Directed staff to bring recommendations to 8/23 Council meeting, including a plan for notification to property owners
NEW BUSINESS 1. Planning Commission recommendation – sensitive areas code revisions; PA 9906026. 2. Comeford Park Reservoir study	Scheduled Workshop for 8/16 Scheduled open house for 9/20 to receive public input
ORDINANCES AND RESOLUTIONS	
1. An ordinance of the City of Marysville amending Ordinance No. 2218 relating to the 1999 budget and providing for the increase of certain expenditure items as budgeted for in 1999.	Approved Ordinance 2271
2. An Ordinance of the City of Marysville amending Ordinance No. 2218 relating to the 1999 budget, declaring a non-debatable emergency to exist and providing for the increase of certain expenditure items as budgeted for in 1999.	Approved Ordinance 2272
3. An ordinance of the City of Marysville affirming the decision of the Hearing Examiner, rezoning property, and approving the preliminary site plan and shoreline substantial development permit for property owned by Adalberto and Maxine Salinas, Alejandro and Jean Salinas, and John W. St. John, amending the official zoning map of the city.	Approved Ordinance 2273
4. An ordinance of the City of Marysville amending MMC 19.22.070(2) relating to SEPA decisions and appeals and amending the policies providing for the exercise of substantive authority in the conditioning or denying of proposals.	Approved Ordinance 2274
5. Resolution of the City of Marysville adopting a six-year transportation improvement program (2000-2005), including an arterial street construction program in accordance with the regulations of the Urban Arterial Board.	Approved Resolution 1933
6. Resolution of the City of Marysville amending Resolution No. 1320 and adopting cablecasting rules and regulations for the Marysville television channel.	Approved Resolution 1934
LEGAL MATTERS None	
INFORMATION ITEMS	
1. Mayor's business 2. Staff's business 3. Call on councilmembers	
ADJOURN	10:57 p.m.

**MINUTES
MARYSVILLE CITY COUNCIL - REGULAR MEETING
JULY 26, 1999**

00209

CALL TO ORDER/FLAG SALUTE

The meeting was called to order by Mayor Weiser at 7:00 p.m. in the Council Chambers, and the assemblage joined in the flag salute. A voice roll call was conducted. Attendance was as follows:

Councilmembers Present:
Dave Weiser, Mayor
Donna Wright, Mayor Pro Tem
Shirley Bartholomew
NormaJean Dierck
Otto Herman, Jr.
Mike Leighan
Donna Pedersen
Brett Roark

Administrative Staff present:
Dave Zabell, City Administrator
Robert Carden, Police Chief
Ed Erickson, Finance Director
Gloria Hirashima, City Planner
Grant Weed, City Attorney
Owen Carter, City Engineer
Robin Nelson, Project Manager

MINUTES OF PREVIOUS MEETING

1. City Council meeting July 12, 1999

Councilmembers noted the following corrections:

- Page 6, "at what point a candidate would be eligible" should be "ineligible."
- Page 7, Sue Kendall "spoke on behalf of" should be "chairman of"
- Page 7, delete "just" from "not just the community channel."
- Page 8, information item 2, the "Terry Deffries signs" should be "Nikki Deffries signs."
- Page 8, ordinances and resolutions, the motion should reflect "Ordinance 2270" not "Resolution 2270."
- Page 8, legal matters, 214 was the number of the recovery contract.

MOTION by Bartholomew, second by Dierck, to approve the minutes of the June 26, 1999 meeting as corrected. Motion carried unanimously (7-0).

AUDIENCE PARTICIPATION

Bruce Tipton, 6308 100th Street NE, requested council institute mitigation fees to support the fire department, similar to those collected for schools. This would allow purchase of the equipment necessary to support growth in the area. Mayor Weiser responded that Marysville had merged with Fire District 12 and fire districts were prohibited from establishing mitigation fees because they were taxing authorities. Mr. Weed added that the legal aspects of the suggestion would require careful study. Councilmember Leighan noted that he served on the Fire Board and knew the Fire District to be financially solvent, with a new fire station being planned, four recently-acquired new vehicles which were paid for, and a cushion in the bank. Councilmember Pedersen stated she was also a member of the Fire Board and that specific levies supported EMS services.

CONSENT AGENDA

1. Approve July 26, 1999 claims in the amount of \$469,820.58 paid by check nos. 46766 through 47079 with check nos. 23425, 40298, 42179, 42101, 42812, 45243, and 46253 void.
2. Approval of utility variance request for three water connections and three sewer connections, subject to conditions. SGA Corporation (Bob Hart); 31st Avenue South of 6130 (Lots 2 and 3); UV 99-03.

MOTION by Pedersen, second by Wright, to approve item 2. Motion carried unanimously (7-0).

Regarding item 1, Councilmember Dierck questioned check numbers 46940 and 46977 for water quality testing; no staff member was present who could supply the technical information about the type of testing done. Mayor Weiser agreed to obtain the requested information. Councilmember Pedersen requested that the most commonly used codes for the enterprise funds be supplied to councilmembers.

MOTION by Bartholomew, second by Dierck to approve item 1. Motion carried unanimously (7-0), with Leighan abstaining as to check number 47070.

PRESENTATIONS/PETITIONS/COMMUNICATIONS

1. Proclamation – National Night Out 1999.
Mayor Weiser noted this would be the third year of this event. He read the proclamation and presented it to the city's Senior Coordinator, Terry Parker, and thanked him for his contribution to the city in organizing both the block watch program and this event. The council and audience joined in applauding Mr. Parker.

ACTION ITEMS

Review Bids

None.

Public Hearing

1. L.I.D. No. 70 (continued from June 28, 1999). Response to council questions.
Mr. Nelson gave the staff presentation noting that council had reviewed two methods of assessment: zone & termini and square footage. A third method consisted of calculating the special benefit to the property by appraisal. It calculated the benefit at its highest and best use resulting from the proposed improvements. The appraisal firm of MacCaulay and Associates of Everett had been used to perform an independent review. The review had concluded that lack of an access road right-of-way into the properties south of 116th Street and west of State, would prevent the development of assessments for the project. He noted that zone & termini looked at frontage to calculate the benefit and did not take into consideration that if a property did not have access it could not be developed to its best and highest use. He added that the property owners were negotiating for access but without that the LID's benefit to the properties would be marginal. This would result in assessments that were non-proportional, which could lead to litigation. Staff recommended rejection of the formation of LID No. 70 in its current form.

Councilmember Pedersen asked about the LID process, questioning if problems like this could be identified earlier. Mr. Nelson reviewed the LID formation process and noted that this particular LID had differing land uses, frontages and lot sizes. The formula-based assessment methods which the city had used in past LID's were found to be inadequate for this one. He added that this LID was the most complex to come before the city.

Councilmember Wright asked if the property owners had paid a fee. Mr. Nelson responded that an initial fee of \$700 had been paid to certify the petition. Usually, each signer would have paid a \$300 non-refundable fee to certify their signature, but this was a specialized LID that the city had budgeted for and had already begun preliminary design work on. The petition carrier paid the \$700 fee that was established. Such fees were deducted from the final assessments.

Councilmember Dierck asked about the property owners who had opposed the formation of the LID. Mr. Nelson stated only one written protest had been filed.

Regarding service to the Tribes property, he noted the Tribes were interested in sewer service and the city would have to negotiate a special agreement for that.

Charles MacCaulay, 2927 Colby, responded to questions from council as follows:

- The Snohomish County Assessor's property valuations did not play a role in his analysis. He did use assessment data on land area and similar information. But his assessment was done from appraising each parcel to consider the value without sewers and other improvements then once to evaluate each piece as if it had received the benefiting improvements from the LID project. All of the special benefits were added together and that total was divided into the total proposed assessment. A "comfortable" answer would show that the property owner was receiving a dollar's worth of value for every seventy cents of cost.
- It would not be prudent business practice to form the LID now and make preliminary valuations based on lack of good access to some parcels, then have the final assessment rolls be substantially different than the initial ones because access had become available in the interim.
- Whether the assessment could be done with the assumption access would become available would be a legal question to be answered by bond counsel. From an appraisal viewpoint, there needed to be assurance that something would occur. It

would be better to have a LID that brought in sewer, water, streets and sidewalks, all the infrastructure needed. This would be desirable for making the special benefit assessment stand alone. A preliminary design would be adequate to base assessments on and would bring the initial assessments and the final assessments closer together.

George Mack of Foster, Pepper and Sheffelman, the city's bond counsel firm, affirmed that a proposed improvement district that was not homogeneous needed to be approached with more care. The proposed LID contained many large parcels that were undeveloped. The Constitution required that taxes be levied uniformly, and courts had held that the uniformity test could be passed if it was measured by an increase to property values caused by the improvements. He distributed copies of a LID Overview booklet and suggested the city use a team approach for at the outset for unusual benefit areas such as this one.

Responses to council's other inquiries included:

- There was uncertainty regarding the sale of bonds for the improvement district because of its fragmented nature. The county assesses property with the improvements that would go on and if those improvements were greater than the property value the bond market would not look favorably on the issue. If the issue went to the bond market as presently structured, it would have to go as a revenue bond.
- Tribal land would be appraised as to market value on the same basis as the surrounding property.

The Mayor opened floor for public comments.

Rod Ayres, 3514 166th Street, stated he was speaking on behalf of his grandfather, and supported sewers going into the area. He had agreed with the first assessments that were done, but not the zone and termini. Mayor Weiser responded that the estimated project cost was \$2.9 Million, and the concern was how to ensure property owners would receive a benefit that was proportionate to what they would have to pay for the improvements. The project itself was needed and wanted by the land owners; how to assess them fairly remained the issue. Mr. Ayres mentioned the difficulty he had encountered in trying to obtain copies of records from the city.

Jeff Seibert, 5004 80th Street, agreed with the staff recommendation and stated the underlying problem was that the area south of 116th and West of State had not been laid out.

Elmer Michaels, 2514 254th NW, Stanwood, noted that the initial efforts had addressed the area from 116th to the north then the project grew. Mayor Weiser responded that it would not be cost effective to put in the improvements for a district smaller than the current LID size. Because of the cost of the one sewer trunk line that must go in, it would be better if the project were this size or larger.

Joseph Miklautsch asked if individual property owners could continue the work of extending the sewer without waiting for the LID to be formed. Some were ready to develop. Mr. Zabell responded that developer extensions were an option and if a group of developers were interested, they would have an opportunity to recoup some of their costs.

There was no one further wishing to speak, so the Mayor closed the public hearing on this issue.

MOTION by Herman, second by Dierck,

- to find that in order to have assessments that were allocated fairly, equitably, and proportionally to the parcels involved it would be necessary to first have some known access established for that portion of the proposed benefit district lying south of 116th and west of State and since that access had not been established,
- to accept the recommendation of staff and reject the formation of LID No. 70 in its current form and request staff to bring back the implementing resolution for council adoption.

VOTE ON MOTION: Roark voted nay; all others voted aye; motion carried (6-1).

Current Business

1. 116th Street Master Plan – scope of work

Ms. Hirashima gave the staff presentation, noting that estimates from consultants ranged from \$45,000 to \$65,000. She suggested that \$60,000 would be a good estimate for the entire scope of work, including sensitive areas and traffic, but Endangered

Species Act questions were developing issues and could require additional work and cost. Responses to council questions and councilmember comments included:

- 1-1.3 anticipated a plan based on current ownerships and uses.
- The intent of the phasing language in paragraph 6 was to indicate the timing of infrastructure improvements. Because the property owners may come in at different times, the question of a combined access for all properties needed to be addressed, as well as a signal at 116th and a new road crossing. It would be important to establish when the improvements would be made so everyone would know what would trigger the requirement to do the improvements.
- The council should be proactive in planning for development in this area as it could provide tax base for the city in the future.
- The cost of this planning could be covered in four ways: the city could budget for it and spread it across the taxpayer base; contract with property owners – RCW 82 allowed for recovery of certain costs; form a Special Planning assessment Area and recover through development fees; incorporate the cost into any plans for mitigation fees for roads, parks, etc., and may be adopted in the future. The preferred option should be identified by council before directing the consultant to begin.
- There were adequate funds in the city's budget for this year to begin this planning effort.
- The consultants are busy and a project of this magnitude would take six to eight months minimum.
- It would be unconscionable to use general fund money to create a plan for a limited area of the city and only a few property owners. Staff should recommend a recovery plan to council.
- If I-695 passed, the city could not increase or implement new fees without a vote of the people. How would that affect this planning effort?
- Support from property owners needed to be there.
- Traffic and park mitigation fees should be increased before any development took place.
- Sensitive areas were mentioned twice in the proposed scope of work, which would indicate that the council's vote would have an impact on sensitive areas in the planning area.
- If I-695 passed, could the city be able to recover costs from the property owners? Nothing in I-695 would prohibit a voluntary contribution by property owners under a contract, as this would not be an assessment or a fee contemplated by the initiative.
- It is unknown whether 100% of the property owners must agree to help fund the study.

Mr. Erickson noted that passage of I-695 would have an immediate impact on the general fund of approximately one quarter million.

The Mayor called for public comments.

Phyllis McKenzie, 1528 172nd Street NE, Arlington, emphasized that tonight's action was important as one property owner had an earnest money from someone who wanted to build a large complex on 116th. She had heard one property owner, Mr. Britz, say he would be willing to pay to get the planning process started, but no specific amount was mentioned. This represented seven acres in two parcels. She was certain that all property owners who were ready to develop would be willing to pay.

Mr. Weed stated that by the August 23rd meeting he could do the legal work necessary to proceed. The quickest way to get input from the property owners would be to send out a proposed recovery contract and have council receive their responses. He reviewed the route I-695 would follow if it were constitutionally challenged. The process could take up to a year, and in the meantime the state would be living with the legislation.

Gary Petershagen, 505 Cedar Suite D1, stated he worked with the owners of 70 to 80 acres of the 160 acres in the planning area. He felt they would support the city's proposal for a planning process, but he could not commit on their behalf.

Rod Ayres stated the improvements were needed and since Quilceda Creek was in the subject area he questioned if the Department of Ecology could be approached to help with funding.

Mark Smith, 9925 183rd Place SE, in unincorporated Snohomish County, stated he had a proposed project for seven acres in the subject area; Mayor Weiser responded that it would be inappropriate to discuss the details of development at this time.

The Mayor closed the public comment portion of the discussion.

Mr. Zabell suggested that a voluntary agreement would be the fastest way to move the project forward. If the council and property owners agreed, it would not require 100% participation in order to proceed. Mr. Weed added that if the agreement called for

voluntary contributions it must assure that anyone who does not contribute receives the same treatment and consideration as those who do. Ms. Hirashima emphasized that the entire subject area must be included in the planning process.

MOTION by Herman, second by Roark, to direct staff to work on the proposal and bring back for the August 23rd council meeting one or more recommendations for proceeding with the 116th Street Master Planning Process, including a plan for notification to the property owners that would enable them to participate and give timely feedback to the council. Interim progress reports were requested. Motion carried unanimously (7-0).

Mayor Weiser recessed the meeting for five minutes at this point.

New Business

1. Planning Commission recommendation – sensitive areas code revisions; PA 9906026. Ms. Hirashima presented the background material, noting that the changes were limited to a few areas.

Councilmember Wright noted that two additional letters had been delivered to council this evening and one was from the Department of Commerce Trade and Economic Development but not the same person who testified at the Planning Commission meeting. She stated that it was customary in such cases to set a public hearing or a workshop in order to further consider the information presented. She recommended a workshop. Councilmember Bartholomew added that she had not received the aforementioned letter and had not had time to read the one which she did receive.

Councilmembers Herman and Dierck spoke strongly in support of going forward with the adoption of the recommendations.

MOTION by Wright, second by Bartholomew, to hold a workshop on this topic on August 16th. Herman, Leighan and Dierck voted nay; all others voted aye; motion carried (4-3).

2. Comeford Park reservoir study.

Mr. Nelson presented the agenda materials, advising that the cost to refurbish the tower would be \$113,000, which would extend its life for approximately 20 years; the cost to dismantle it would be approximately \$55,000.

A lengthy discussion ensued; comments included:

- The complete report analyzed the integrity of the structure as to OSHA and WISHA compliance and also contained a seismic analysis. Councilmembers requested to see the entire evaluation report, not just page 24.
- The \$4,000 for regrading site was to have the sod and soil removed from the foundation anchor bolts and lower the grade so the structure could be painted.
- The work could be phased over time to spread the cost over three to four years.
- Councilmember Roark requested more detailed information on the estimate for dismantling the tank.
- Several councilmembers expressed support for preserving the tank based on the many comments they had received from citizens.
- Several councilmembers expressed concern about the estimated costs for both preservation and demolition, particularly in light of the city's new obligation for the 800 MHz system and the unknown impact of I-695.

Kathy Weiser, 1923 3rd Street, asked how much time the public would have to respond to a call to save the tower. Mr. Nelson responded that improvements regarding access were in critical need of being replaced; the tower should not be accessed until those were completed.

MOTION by Dierck, second by Leighan, to host an open house on September 20th at the Ken Baxter Senior Center to receive public input regarding this issue and particularly to determine if the public was interested enough to generate the funds necessary for preservation. Roark and Bartholomew voted nay; all others voted aye; motion carried (5-2).

Ordinances & Resolutions

1. An ordinance of the City of Marysville amending Ordinance No. 2218 relating to the 1999 budget and providing for the increase of certain expenditure items as budgeted for in 1999.

MOTION by Bartholomew, second by Dierck, to approve Ordinance 2271.
Motion carried unanimously (7-0).

1. An Ordinance of the City of Marysville amending Ordinance No. 2218 relating to the 1999 budget, declaring a non-debatable emergency to exist and providing for the increase of certain expenditure items as budgeted for in 1999.

MOTION by Roark, second by Herman, to approve Ordinance 2272. Motion carried unanimously (7-0).

3. An ordinance of the City of Marysville affirming the decision of the Hearing Examiner, rezoning property, and approving the preliminary site plan and shoreline substantial development permit for property owned by Adalberto and Maxine Salinas, Alejandro and Jean Salinas, and John W. St. John, amending the official zoning map of the city.

MOTION by Bartholomew, second by Roark, to approve Ordinance 2273.
Motion carried unanimously (7-0).

4. An ordinance of the City of Marysville amending MMC 19.22.070(2) relating to SEPA decisions and appeals and amending the policies providing for the exercise of substantive authority in the conditioning or denying of proposals.

MOTION by Leighan, second by Bartholomew, to approve ordinance 2274.
Dierck and Roark voted nay; all others voted aye; motion carried (5-2).

5. Resolution of the City of Marysville adopting a six-year transportation improvement program (2000-2005), including an arterial street construction program in accordance with the regulations of the Urban Arterial Board.

MOTION by Pedersen, second by Bartholomew, to adopt resolution 1933. .
Motion carried unanimously (7-0).

6. Resolution of the City of Marysville amending Resolution No. 1320 and adopting cablecasting rules and regulations for the Marysville television channel.

MOTION by Pedersen, second by Bartholomew, to approve Resolution 1934.
Dierck and Herman voted nay; all others voted aye; motion carried (5-2).

LEGAL MATTERS

None.

DISCUSSION ITEMS

None.

INFORMATION ITEMS

1. Mayor's business

Mayor Weiser apprised council on the status of the county's buildable lands analysis and the possible impacts to the city, particularly the area north of the city. He noted the city and Fire District 12 had been living up to their agreement with the county as drafted, but the county recently sent proposed new language which was unacceptable.

He requested a workshop on Thursday, August 5th at 7 p.m. in library's large conference room regarding the dispatch center. Chief Carden requested this topic be reviewed.

2. Staff's business

- Chief Carden repeated the invitation to participate in National Night Out.
- The Department was addressing 72nd Drive by working with the Engineering Department and with traditional enforcement and a reader board at the site.
- One of their volunteers, Roger Toulouse, passed away and the funeral Service would be Friday the 30th at Machias Community Church.

Mr. Weed advised he would be out of town from July 28th until August 2nd, but would be back for the August 2nd council meeting.

Ms. Hirashima reported staff was working to complete the 152nd Street annexation. The transfer file sub-agreement with the county needed to be completed.

3. Call on councilmembers

00010

Councilmember Bartholomew:

- Provided Mr. Carter with information on the TEA 21 Conference to be held July 29th in Everett.

Councilmember Herman:

- Reported on the grand opening of the Ash Way Park & Ride lot, which is the largest in the state with 1000 stall. He noted that Community Transit put several changes on hold pending more information about the impacts of I-695.
- Requested an analysis of the possible impacts of I-695, suggesting that all fee schedules, mitigation fees and golf course fees could be reviewed and updated now.

Councilmember Leighan:

- Requested an update on 80th; Mr. Carter believed the plans had not been signed but would report at the next meeting.
- Mentioned the increase in auto thefts; Chief Carden responded that the Department was working the problem.
- Reminded councilmembers of the Chamber breakfast.

Councilmember Pedersen:

- Shared the concerns regarding I-695, noting future funding for the Health District was in question.

ADJOURN

The meeting adjourned at 10:57 p.m.

Accepted this 2nd day of August, 1999.

David Weir
Mayor

Mary Swanson
City Clerk

Ann M. Auerill
Recording Secretary